SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok **Monday 17th April, 2006** **No. 105**

GOVERNMENT OF SIKKIM
LAW DEPARTMENT

No. 31/LD/2006 **Date: 15.04.2006.**

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 25.03.2006 is hereby published for general information:-

SIKKIM ANTI DRUGS ACT, 2006
(Act No. 2 of 2006)

AN ACT

to control, regulate and prevent the abuse of drugs and controlled substances with abuse potential being misused by addicts and traffickers, to make stringent provisions to deal with the ever increasing phenomenon of abuse of medicinal preparations and for matters connected therewith.

Be it enacted by the State Legislature in the Fifty-seventh Year of Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short Title, extent and commencement

1. (1) This Act may be called the Sikkim Anti Drugs Act, 2006.
(2) It extends to the whole of Sikkim.
(3) It shall come into force on the date of publication in the Official Gazette.

Definitions

2. In the Act, unless the context otherwise requires –

(i) "Act" means the Sikkim Anti Drugs Act, 2006;
(ii) "addict" means a person who has dependence in any drug having abuse potential and consumes the said drug;
(iii) "controlled substances" means any substance declared by the Government by notification, published in the Official Gazette;
(iv) "conveyance" means a conveyance of any description whatsoever and includes any aircraft, vehicle (two-or-three wheeled) or vessel;
(v) "Government" means the State Government of Sikkim;
(vi) "illicit traffic" in relation to controlled substances means production, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import or export inter-State of controlled substances;

(vii) "licensed dealers" means the traders who have the drug license or the trade license to sell the controlled substances or the holders of trade license to sell the substances mentioned;

(viii) "prescribed" means prescribed by rules under this Act;

(ix) "rule" means the rules framed under the Sikkim Anti Drugs Act, 2006.

CHAPTER II

AUTHORITIES AND OFFENCES

Government to take measures for preventing and combating abuse of and illicit traffic of controlled substances, etc.

3. 1) Subject to the provisions of this Act, the Government shall take all such measures as it deems necessary or expedient for the purpose of preventing and combating abuse of controlled substances and the illicit traffic therein.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Government may take under that sub-section include measures with respect to all or any of the following matters, namely:-

(a) co-ordination of action by various officers, departments and other authorities-

(i) under this Act, or

(ii) under any other law for the time being in force in connection with the enforcement of the provisions of this Act;

(b) identification, treatment, education, after care, rehabilitation and social re-integration of addicts;

(c) such other matters as the Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act and preventing and combating the abuse of controlled substances and illicit traffic therein.

(3) The Government may, if it considers necessary or expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an Authority or a hierarchy of authorities, by such name or names as may be specified in the order for the purpose of exercising such of the powers and functions of the Government under this Act and for taking measures with request to such of the matters referred to in sub- section (2) as may be mentioned in the order, and subject to the supervision and control of the Government and the provisions of such order, such authority or authorities may exercise the powers and take the measures so mentioned in the order as if such authority or authorities has been empowered by this Act to exercise those powers and take such measures.

Officers of the Government

4. (1) Without prejudice to the provisions of sub-section (3) of Section 4, the Government shall appoint an officer not below the rank of Joint Secretary or equivalent as the Programme Officer and may also appoint such other officers with such designation as it thinks fit for the purposes of this Act.

(2) The Programme Officer shall, either by himself or through officers subordinate to him, exercise all powers or perform all functions entrusted to him by the Government.

CHAPTER II A

STATE FUND FOR CONTROL OF DRUG ABUSE

State Fund for Control of Drug Abuse

5. 1) The Government may, by notification in the Official Gazette, constitute a Fund to be called the State Fund for Control of Drug Abuse (hereafter referred to as the Fund) and there shall be credited thereto –

(a) an amount the Government may, after the appropriation made by the State Legislature by law in this behalf, provide;
(b) the sale proceeds of any drugs seized or property forfeited;
(c) any grants that may be made by any person, institution or organization;
(d) any income from investments of the amounts credited to the Fund under the aforesaid provisions.

(2) The Fund shall be applied by the State Government to meet the expenditure incurred in connection with the measures taken for –

(a) combating illicit traffic in controlled substances;
(b) controlling the abuse of controlled substances;
(c) identifying, treating, rehabilitating addicts;
(d) preventing drug abuse;
(e) educating public against drug abuse; and
(f) supplying drugs to addicts where such supply is a medical necessity.
(g) training of personnel.

Annual report of activities financed under the Fund.

6. The State Government shall, as soon as may be, after the end of each financial year, give an account of activities financed under Section 4A during the financial year, together with a statement of accounts.

CHAPTER III

PROHIBITION, CONTROLAND REGULATION

Prohibition of certain operations

7. No person shall –
(a) sale, stock for sale or trade in any controlled substance; or
(b) transport either inter-State or intra-State any controlled substance,

Without a valid license under the Drugs and Cosmetics Act, 1940 or Sikkim Trade License Act:

Provided that, and subject to the other provisions of the Act and the rules made thereunder, the possession of small quantities of controlled substances for medicinal purposes with a valid prescription, or for a legal use of the substance, shall be permissible:

Provided further that the amount of controlled substance in possession shall not be beyond the limit prescribed in prescription slip/card, or in cases of other substances other than drugs, the amount permissible shall be proportionate to its purported use.

Power of Government to permit, control and regulate

8. Subject to the provisions of Section 7, the Government may, by rules-

(a) permit and regulate –

(i) the possession of controlled substances by the authorized person;
(ii) the sale of controlled substances by the licensed dealers;
(iii) the use and consumption of controlled substances in any chemical form;
(iv) the manufacture of the controlled substances by the licensed manufacturers;
(v) the transport of controlled substances by licensed dealers and authorized persons;
(b) prescribe any other matter requisite to render effective the control of Government over any of the matters specified in clause (a).

CHAPTER IV
OFFENCES AND PENALTIES

Punishment for contravention of controlled substances

9. Whoever, contravenes any provision of this Act or any rule or any order made thereunder shall be punishable –

(a) where the contravention is by the licensed dealers, with suspension or cancellation of the license, or with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand rupees, or with all;

(b) where the contravention involves use or consumption of the controlled substances, without valid medical prescription, by any means/route of intake, in any chemical form, such person shall udergo with compulsory detoxification, and to be followed by rehabilitation and also will remain under observation/probation, and such person shall also be liable to pay a fine which may extend to ten thousand rupees, if the user is young, unmarried or unemployed;

(c) where the contravention involves a person who is a State Government employee, or an employee in an Organisation or Undertaking under the State Government, such person shall be liable to imprisonment which may extend to six months, and also liable to pay a fine which may extend to twenty thousand rupees. Further, such person shall also be liable to dismissal from service;

(d) where the contravention involves a person using a mode of transport or any other form of conveyance, either inter-State or intra-State, such person shall be liable to imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and the vehicle as used, shall be liable to be seized and confiscated, which may be released on payment of twenty thousand rupees;

(e) where the contravention involves the manufacturer of controlled substances, such person shall be liable to imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees, or with both;

(f) where a person who has been convicted for an offence under this Act and if such person is unemployed, such conviction shall be a disqualification for employment under the State Government.

Punishment for allowing premises, etc., to be used for commission of an offence

10. Whoever, being the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance, knowingly permits it to be used for the commission by any other person of an offence punishable under any provision of this Act, shall be punishable with imprisonment which may extend to one year or with fine which may extend to fifty thousand rupees, or with both.

Punishment for financing illicit traffic and harbouring offenders

11. Whoever indulges in financing, directly or indirectly, any of the activities specified in clause (vi) of Section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with imprisonment for a term which shall not be less than two years or with fine which shall not be less than one lakh rupees:

Provided that the court may, for reasons to be recorded in the judgement, impose a fine exceeding one lakh rupees.

Punishment for abetment and criminal conspiracy

12. Whoever abets, or is a party to a criminal conspiracy to commit an offence punishable under this chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy and notwithstanding anything contained in Section 116 of the Indian Penal Code, punishable with punishment provided for the offence.

Enhanced punishment for offences after previous conviction

13. If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under this Act with the same amount of punishment shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which may extend to twice the maximum term of punishment, and also be liable to fine which shall extend to twice the maximum amount of fine:

Provided that the court may, for reasons to be recorded in the judgement, impose a fine exceeding the fine for which a person is liable.

Punishment for offence for which no punishment is provided

14. Whoever contravenes any provisions of this Act or any rule or order made thereunder for which no punishment is separately provided in this chapter, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to twenty thousand rupees, or with both.

No suspension, remission or commutation in any sentence awarded under this Act

15. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, no sentence awarded under this Act (other than Section 7 (b)) shall be suspended, remitted or commuted.

Presumption of culpable mental state

16. (1) In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defense for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation: In this section "culpable mental state" includes intention, motive, knowledge of a fact and belief in, or reason to believe a fact.

(2) For the purpose of this section, a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.

Constitution of Special Courts

17. (1) The Government may, for the purpose of speedy trial of the offences under this Act, by notification in the Official Gazette, in consultation with the High Court of Sikkim, designate a Court of District and Sessions Judge as the Special Court for the purpose of trial of the offences under this Act.

(2) A special court shall consist of a single Judge who shall be appointed by the Government with the concurrence of the Chief Justice of the High Court.

(3) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure. 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a special court and for the purposes of the said provisions, the special court shall be deemed to be a Court of Session and the person conducting a prosecution before a special court, shall be deemed to be a Public Prosecutor.

No prosecution under this Act shall be instituted except by a Gazetted Officer or an officer not below the rank of Deputy Superintendent of Police.

Offences to be cognizable and non-bailable

18. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 –

(a) every offence punishable under this Act shall be cognizable;
(b) no person accused of an offence punishable under this Act shall be released on bail or on his own bond unless –
(i) the Public Prosecutor has been heard and also given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.

Power of court to release certain offenders on probation

19. (1) When an addict is found guilty of an offence punishable under Section 9 (b) and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for detoxification or de-addiction from a hospital or an institution maintained or recognized by the Government, and to appear and furnish before the court within a period not exceeding six months, a report regarding the result of his medical treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV.

(2) If it appears to the court, having regard to the report regarding the result of the medical treatment furnished under sub-section (1), that it is expedient so to do, the court may direct the release of the offender after due admonition, and for abstaining from the commission of any offence under Chapter IV during such period as the court may deem fit to specify or on his failure so to abstain, to appear before the court and receive sentence when called upon during such period.

CHAPTER V

PROCEDURE

Power to issue warrant and authorization

20. (1) A Magistrate of the first class or any Magistrate of the second class specially empowered by the Government in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under this Act, as for the search, whether by day or by night, of any building, conveyance or place in which he has reason to believe any controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence.

(2) Any such officer of gazetted rank of the departments of drug control, excise, police or any other department of the Government as he is empowered in this behalf by general or special order of the Government if he has reason to believe from personal knowledge or information given by any person and taken on writing that any person has committed an offence punishable under this Act or any document or other article which may furnish evidence of the commission of such offence is kept or concealed in any building, conveyance or place authorize any officer subordinate to him but superior in rank to a peon, helper or a constable to arrest such a person or search a building, conveyance or place.

(3) The officer to whom a warrant under sub-section (1) is addressed and the officer who authorized the arrest or search or the officer who is so authorized under sub-section (2) shall have all the powers of an officer acting under Section 21.

Power of entry, search, seizure and arrest without warrant or authorization

21. (1) Any such officer (being an officer superior in rank to a peon, helper or constable) to the departments of drugs control, excise, police or any other department of the Government as is empowered in this behalf by general or special order of the Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset –

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize any drug or substance or any other article and any animal or conveyance which he has reason to believe to be liable for confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act; and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

Provided that if such officer has reason to believe that a search warrant or authorization cannot be obtained without affording, any opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search any building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

Power of seizure and arrest in public place

22. Any officer of any of the departments mentioned in Section 21 may –

(a) seize in any public place or in transit, any controlled substance in respect of which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reason to believe an offence punishable under this Act has been committed, and, along with such drug or substance, any animal or conveyance or article liable to confiscation under this Act, any document or other article which he has reson to believe may furnish evidence fo the commission of an offence punishable under this Act;

(b) detain and search any person whom he has, reason to believe to have committed an offence punishable under this Act, and if such person has any controlled substance in his possession and such possession appease to him to be unlawful, arrest him and any other person in his company.

Explanation: For the purposes of this section, the expression "public place" includes any public conveyance, hotel, shop, or other place intended for use by, or accessible to, the public.

Power to stop and search conveyance

23. Any officer authorized under Section 21, may, if he has reason to suspect that any animal or conveyance is, or is about to be, used for the transport of any controlled substance in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened at any time stop such animal or conveyance and –

(a) rummage and search the conveyance or part thereof;

(b) examine and search any goods on the animal or in the conveyance;

(c) if it becomes necessary to stop the animal or the conveyance, he may use all lawful means for stopping it, and where such means fail, the animal or the conveyance may be fired upon.

Conditions under which search of persons shall be conducted

24. (1) When any officer duly authorized under Section 21 is about to search any person under the provisions of Section 20, Section 21 or Section 22, he shall, if possible, take such person to the nearest gazetted officer of any of the departments mentioned in Section 21 or to the nearest Magistrate.

(2) When an officer duly authorized under Section 19 has reason to believe that it is not possible to take the person to be searched to the nearest gazetted officer or Magistrate without the possibility of the person to be searched parting with possession of any controlled substance or article or document, he may, instead of taking such person to the nearest gazetted officer or Magistrate, proceed to search the person as provided under Section 100 of the Code of Criminal Procedure, 1973.

(3) After a search is conducted under sub-section (2), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.

(4) No female shall be searched by anyone except female or in presence of a female.

Disposal of persons arrested and articles seized

25. (1) Any officer arresting a person under Section 20, Section 21, or Section 22 shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested or article seized under warrant issued under sub-section (1) of Section 20 shall be forwarded without unnecessary delay to the Magistrate by whom the warrant was issued.

(3) Every person arrested and article seized under sub-section (2) of Section 20, Section 21 or Section 22 shall be forwarded without unnecessary delay to –

(a) the officer-in-charge of the nearest police station;
(b) the officer empowered under Section 27.

(4) The authority or officer to whom any person or article is forwarded under sub-section (2) or sub-section (3) shall, take such measures as may be necessary for the disposal according to law of such person or article.

Disposal of seized controlled substances

26. (1) The Government may, having regard to the nature of any controlled substances, their vulnerability to theft, substitutions, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, shall specify, as soon as may be after their seizure, be disposed by such officer and in such manner as the Government may, from time to time, determine after following the procedure hereinafter specified.

(2) When any controlled substance have been seized and forwarded to the officer-in-charge of the nearest police station or to the officer concerned under Section 27, the officer referred to in sub-section (1) shall prepare an inventory of such substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the controlled substances or the packing in which they are packed, the name of the manufacturer and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the controlled substance in any proceedings under this Act and make an application, to any Magistrate for the purpose of –

(a) certifying the correctness of the inventory so prepared;
(b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true;

(c) allowing to draw samples of such drugs and substances by the Drugs Inspector for analysis of the samples in a designated and approved testing laboratory.

(3) Where an application is made under sub-section (2) the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, the photographs of controlled substances, the list of samples drawn or the analytical reports thereof under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.

Powers to invest officers of certain departments with powers of an officer-in-charge of a police station

27. The Government may, by notification published in the Official Gazette, invest any officer of the department of drugs control, excise or any other department or any class of such officers with the powers of an officer-in-charge of a police station for the investigation of offences under this Act:

Provided where a police officer is authorized, such officer shall not be below the rank of Deputy Superintendent of Police.

Police to take charge of articles seized and delivered

28. An officer-in-charge of a police station shall take charge of and keep in safe custody, pending the orders of the Magistrate, all articles seized under this Act within the local area of that police station and which may be delivered to him.

Obligation of officers to assist each other

29. All officers of the several departments mentioned in Section 21 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Report of arrest and seizure

30. Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours of the arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate superior official.

Punishment for vexatious entry, search, seizure or arrest

31. (1) Any person empowered under Section 21 or Section 22, who –

(a) without reasonable ground of suspicion enters or searches, or causes to be entered or searched, any building, conveyance or place;

(b) vexatiously or unnecessarily seizes the property of any person on the pretence of seizing or searching for any controlled substance or other article liable to be confiscated under this Act, or of seizing any document or other article liable to be seized under Section 21 or Section 22; or

(c) vexatiously or unnecessarily detains, searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.

(2) Any person willfully or maliciously giving false information and so causing an arrest or search being made under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.

Failure of officer in duty or his connivance at the contraventions of the provisions of this Act

32. (1) Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment which may extend to six months or with fine or with both.

(2) Any officer on whom any duty has been imposed by or under this Act or any person who has been given the custody of any addict or any other person who has been charged with an offence under this Act, and who willfully aids in, or connives at, the contravention of any provisions of this Act or any rule or order made thereunder, shall be punishable with rigorous imprisonment for a term which shall not be less than one year but which may extend to two years, and shall also be liable to fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

(3) No court shall take cognizance of any offence under sub-section (1) or sub-section (2) except on a complaint in writing made with the previous sanction of the Government.

Liability of controlled substances,articles and conveyances to confiscation

33. Whenever any offence punishable under this Act in respect of controlled substances, articles, documents, etc. or animal or conveyance used in carrying controlled substances, shall be liable to confiscation.

Confiscation of goods used for concealing

34. Any goods used for concealing any controlled substance which is liable to confiscation under this Act shall also be liable to confiscation.

Confiscation of sale proceeds of controlled substances

35. Whenever any controlled substance is sold by a person having knowledge or reason to believe that such substance is liable to confiscation under this Act, the sale proceeds thereof shall also be liable to confiscation.

Procedure in making confiscations

36. (1) In the trial of offences under this Act, whether the accused is convicted or acquitted or discharged, the court shall decide whether any article or thing seized under this Act is liable to confiscation under Section 33 or Section 34 or Section 35 and, if it decides that the article is so liable, it may order confiscation accordingly.

(2) Where any article or thing seized under this Act appears to be liable to confiscation under Section 33 or Section 34 or Section 35, but the person who committed the offence in connection therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim.

Immunity from prosecution to addicts volunteering for treatment

37. Any addict, who is charged with an offence punishable under 9 (b), voluntarily seeks to undergo medical treatment for de-addiction from a hospital or an institution maintained or recognized by the Government and undergoes such treatment shall not be liable to prosecution under Section 9 (b):

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-addiction.

Power to call for information, etc.

38. Any officer referred to in Section 21 who is authorized in this behalf by the Government may, during the course of any enquiry in connection with the contravention of any provisions of this Act –

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to the enquiry;

(c) examine any person acquainted with the facts and circumstances of the case.

Information as to commission of offence

39. No officer acting in exercise of powers vested to him under any provision of this Act or any rule or order made thereunder shall be compelled to say when he got any information as to the commission of any offence.

CHAPTER VI
MISCELLANEOUS

Protection of action taken in good faith

40. No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government or any other person exercising any powers or discharging any functions or performing any duties under this Act, for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

Power of Government to establish centres for identification,

41. (1) The Government may, in its discretion, establish as many centres as it thinks fit for identification, treatment, education, after-care, rehabilitation, social re-integration of addicts.

(2) The Government may make rules consistent with this Act providing for the establishment, appointment, maintenance, management and superintendence of the centres referred to in sub-section (1) and for the appointment, training, powers, duties and persons employed in such centres.

Power of Government to make rules

42. (1) Subject to the other provisions of this Act, the Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of foregoing power, such rules may provide for the matters for effective implementation of the provisions of this Act wherever necessary.

(3) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of the State.

Power to remove difficulties

43. If any difficulty arises in giving effect to the purposes of this Act, the State Government may take steps or issue such orders not inconsistent with the provisions of this Act as may appear to it to be necesary or expendient for the purpose of removing such difficulty:

Provided that no such order shall be made after the expiry of a period of two years form the date of commencement of this Act.

Saving of other laws

44. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force regulating any of the matters dealt with in this Act.

By Order.

R.K. Purkayastha (SSJS)
Legal Remembrancer- cum- Secretary
Law Department

File no. 16(82) LD/P/2006